

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|                        |   |  |
|------------------------|---|--|
| CARRIE TEAGER,         | ) |  |
|                        | ) |  |
| Plaintiff,             | ) |  |
|                        | ) |  |
| vs.                    | ) |  |
|                        | ) |  |
| SIMM ASSOCIATES, INC., | ) |  |
|                        | ) |  |
| Defendant.             | ) |  |

**COMPLAINT**

**INTRODUCTION**

1. Plaintiff Carrie Teager brings this action to secure redress from unlawful credit and collection practices engaged in by defendant SIMM Associates, Inc. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (“FDCPA”) and the Illinois Collection Agency Act, 225 ILCS 425/1 et seq. (“ICAA”).

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements in connection with the collection of a debt; it also requires debt collectors to give debtors certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

3. The Illinois Collection Agency Act reflects a determination that “The practice as a collection agency by any entity in the State of Illinois is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the collection agency profession merit and receive the confidence of the public and that only qualified entities be permitted to practice as a collection agency in the State of Illinois. This Act shall be liberally construed to carry out these objects and purposes. . . . It is further declared to be the public policy of this State to protect consumers against debt collection abuse.” 225 ILCS 425/1a.

**VENUE AND JURISDICTION**

4. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA) and 28 U.S.C. §§1331, 1337 and 1367.

5. Venue and personal jurisdiction in this District are proper because defendant's collection communications were received by plaintiff within this District.

**PARTIES**

6. Plaintiff Carrie Teager is an individual who resides in the Northern District of Illinois.

7. Defendant SIMM Associates, Inc. is a corporation chartered under the law of Delaware with offices at 800 Pencader Drive, Newark, DE 19702. It does business in Illinois. Its registered agent and office is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

8. SIMM Associates, Inc. regularly uses the mails and telephone to collect consumer debts originally owed to others.

9. SIMM Associates, Inc. is a debt collector under the FDCPA.

10. SIMM Associates, Inc. is a collection agency under the ICAA.

**FACTS**

11. Defendant has been attempting to collect from plaintiff an alleged debt incurred for personal, family or household purposes and not for business purposes.

12. On or about October 14, 2010, plaintiff received the following telephone message from defendant:

572-8797 extension 4719. Thank you. This is a very important message for Carrie Teager. This is not a sales, solicitation or tele-marketing scenario, but rather an important personal business matter. Press the "9" key to connect with one of our associates or please call us back at 1 866 572-8797 extension 4719. Thank you.

13. The number 866-572-8797 is issued to defendant.

14. The call did not identify the company calling or state that the call was for debt collection purposes.

**COUNT I – FDCPA**

15. Plaintiff incorporates paragraphs 1-14.

16. The telephone message was a “communication” within the meaning of 15 U.S.C. §§1692d(6) and 1692e. *Ramirez v. Apex Financial Mgmt., LLC*, 567 F.Supp.2d 1035 (N.D.Ill. 2008); *Foti v. NCO Financial Systems*, 424 F.Supp.2d 643, 669 (S.D.N.Y. 2006); *Hosseinzadeh v. M.R.S. Associates, Inc.*, 387 F.Supp.2d 1104, 1112, 1118 (C.D.Cal. 2005); *Joseph v. J. J. MacIntyre Cos.*, 281 F.Supp.2d 1156 (N.D.Cal. 2003); *Stinson v. Asset Acceptance, LLC*, 1:05cv1026, 2006 WL 1647134, 2006 U.S. Dist. LEXIS 42266 (E.D. Va., June 12, 2006); *Belin v. Litton Loan Servicing, LP*, 8:06-cv-760-T-24 EAJ, 2006 U.S. Dist. LEXIS 47953 (M.D.Fla., July 14, 2006); *Leyse v. Corporation Collection Servs.*, 03 Civ. 8491, 2006 U.S. Dist. LEXIS 67719 (S.D.N.Y. Sept. 18, 2006).

17. The telephone message violated 15 U.S.C. §§1692d(6) and 1692e(11), in that it did not identify the company placing the call and did not contain the e(11) warning. *Hosseinzadeh v. M.R.S. Associates, Inc.*, 387 F.Supp.2d 1104, 1112, 1118 (C.D.Cal. 2005); *Wright v. Credit Bureau of Georgia, Inc.*, 548 F.Supp. 591, 593 (N.D.Ga. 1982); *Valencia v. Affiliated Group, Inc.*, 07-61381, 2008 U.S. Dist. LEXIS 73008 (S.D.Fla., Sept. 23, 2008).

18. 15 U.S.C. §1692d(6) makes it unlawful for a debt collector to engage in the following conduct: “Except as provided in section 1692b of this title, the placement of telephone calls without meaningful disclosure of the caller's identity.”

19. Section 1692e provides:

**§ 1692e. False or misleading representations [Section 807 of P.L.]**

**A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: . . .**

**(11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in**

**subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action. . . .**

WHEREFORE, the Court should enter judgment in favor of plaintiff and against defendant for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

**COUNT II – ILLINOIS COLLECTION AGENCY ACT**

20. Plaintiff incorporates paragraphs 1-14.

21. Defendant violated the following provisions of 225 ILCS 425/9:

**. . . (21) Failing to disclose to the debtor or his or her family the corporate, partnership or proprietary name, or other trade or business name, under which the debt collector is engaging in debt collections and which he or she is legally authorized to use. . . .**

22. A private right of action exists for violation of the ICAA. *Sherman v. Field Clinic*, 74 Ill. App. 3d 21, 392 N.E.2d 154 (1<sup>st</sup> Dist. 1979).

WHEREFORE, plaintiff requests that the Court grant the following relief in favor of plaintiff and against defendant:

- (1) Compensatory, nominal, and punitive damages;
- (2) Costs.
- (3) Such other and further relief as is appropriate.

s/Daniel A. Edelman

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**NOTICE OF LIEN AND ASSIGNMENT**

Please be advised that we claim a lien upon any recovery herein for 1/3 or such amount as a court awards. All rights relating to attorney's fees have been assigned to counsel.

s/Daniel A. Edelman

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